## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE	) MDL No.1456
LITIGATION	) Master File No. 01-CV-12257-PBS
	Subcategory No. 06-CV-11337-PBS
	)
THIS DOCUMENT RELATES TO:	) Judge Patti B. Saris
United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Boehringer	) Magistrate Judge Marianne B. Bowler
Ingelheim Corporation, et al., Civil Action No.	)
07-10248-PBS	)

## DECLARATION OF JOHN W. REALE TRANSMITTING DOCUMENTS IN SUPPORT OF THE ROXANE DEFENDANTS' REPLY IN SUPPORT OF MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

- I am a member of the law firm of Kirkland & Ellis LLP, counsel for the Roxane
  Defendants in the above-captioned action. I am admitted to practice law in the Commonwealth of Massachusetts.
- 2. Attached to The Roxane Defendants' Consolidated Reply in Support of Motion to Dismiss for Lack of Subject Matter Jurisdiction Under the Public Disclosure Bar of the False Claims Act ("Roxane Defendants' Reply") as Exhibit P is a true and correct copy of the February 1997 report prepared by the Department of Health and Human Services, Office of Inspector General, entitled Review of Pharmacy Acquisition Costs for Drugs Reimbursed Under the Medicaid Prescription Drug Program of the Maryland Department of Health and Mental Hygiene.
- 3. Attached to the Roxane Defendants' Reply as Exhibit Q is a true and correct copy of the September 19, 2000 Statement of Representative Pete Stark in the House of Representatives, entitled *How Drug Profits Drive Doctors to Increase Drug Utilization*.

4. Attached to the Roxane Defendants' Reply as Exhibit R is a true and correct copy

of the January 30, 2001 Statement of Representative Pete Stark in the House of Representatives,

entitled As Profits on a Drug Go Up, So Does Utilization. Is This a Form of Patient Abuse?

5. Attached to the Roxane Defendants' Reply as Exhibit S is a true and correct copy

of excerpts from the transcript of the deposition of David Tawes, taken on December 13, 2007 in

the above-captioned action.

I declare under penalty of perjury that the foregoing is true.

Dated: November 23, 2009

Chicago, Illinois

Respectfully submitted,

/s/ John W. Reale

John W. Reale (BBO# 654645)

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## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on November 23, 2009, a copy to LexisNexis File and Serve for posting and notification to all parties.

/s/ John W. Reale John W. Reale